



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LA07005  
Order LA07-07**

**IN THE MATTER** of an appeal by Val  
Cormier of a decision of the City of  
Charlottetown, dated June 11, 2007.

**BEFORE THE COMMISSION**  
on Thursday, the 23rd day of August, 2007.

Brian J. McKenna, Vice-Chair  
Weston Rose, Commissioner

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# Order

Compared and Certified a True Copy

(sgd.) Philip J. Rafuse

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Land and Appeals Officer  
Land, Corporate and Appellate Services Division

**IN THE MATTER** of an appeal by Val  
Cormier of a decision of the City of  
Charlottetown, dated June 11, 2007.

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# Order

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## BACKGROUND

On July 4, 2007, the Commission received a Notice of Appeal from the Appellant, Val Cormier. The Appellant sought to appeal a decision of the Respondent City of Charlottetown, dated June 11, 2007. In that decision, the Respondent rejected the Appellant's application to operate a home occupation.

The Commission does not have the jurisdiction to hear this appeal for the reasons that follow.

## FACTS

On June 11, 2007 the Respondent's Council rejected the Appellant's application to operate a Home Occupation at 29 Bayfield Street Charlottetown (PID 356469). The Respondent's planning staff advised the Appellant of the decision by a letter dated June 12, 2007.

On July 4, 2007, the Appellant filed an unsigned Notice of Appeal with the Commission. On July 6, 2007, the Appellant filed a signed Notice of Appeal.

By letters dated July 9, 2007, Commission staff advised both parties of a potential issue concerning the Commission's jurisdiction to hear the appeal. The parties were invited to file written submissions on the issue with a stated deadline of August 16, 2007.

The Respondent's Record was received by the Commission on July 30, 2007. By letter dated August 1, 2007, Commission staff provided a copy of the Respondent's Record to the Appellant and reminded the Appellant of the deadline for written submissions.

On August 16, 2007 the Commission received written submissions on the jurisdictional issue from David W. Hooley, Q.C., legal counsel for the Respondent. No written submissions on the jurisdictional issue were received from the Appellant.

## FINDINGS

The Commission finds that the Appellant's July 4, 2007 Notice of Appeal was received on the 23<sup>rd</sup> day following the Respondent's decision. The Commission also finds that the Appellant had notice of the Respondent's decision.

The deadline for the Appellant to have filed his appeal ordinarily would have been July 2, 2007. However, as the Commission's offices were not open on that day, subsection 23(3) of the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8 served to extend the deadline for filing the appeal to July 3, 2007.

Subsection 28(1) of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8 reads as follows:

**28.** (1) Subject to subsections (2), (3) and (4), any person who is dissatisfied by a decision of a council or the Minister in respect of the administration of regulations or bylaws made pursuant to the powers conferred by this Act may, within twenty-one days of the decision appeal to the Commission.

The Commission notes that subsection 28(1) of the *Planning Act* does not express the time period as "clear" days, and, accordingly, the time period expressed in subsection 28(1) shall be calculated according to subsection 23(5) of the *Interpretation Act*.

The Commission does not have the statutory authority to extend the time period for filing an appeal under the *Planning Act*. The Appellant received notice of the Respondent's decision in a timely manner. As the Appellant's Notice of Appeal was received after the expiry of the statutory appeal period, the Commission does not have the jurisdiction to hear this appeal.

For these reasons, the Commission does not have the jurisdiction to hear this appeal, and this appeal is hereby dismissed.

**NOW THEREFORE**, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Planning Act*,

## **IT IS ORDERED THAT**

1. The Commission does not have the jurisdiction to hear this appeal.

**DATED** at Charlottetown, Prince Edward Island, this 23rd day of August, 2007.

**BY THE COMMISSION:**

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Brian J. McKenna, Vice-Chair

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Weston Rose, Commissioner

## NOTICE

Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

*12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it or rehear any application before deciding it.*

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written **Request for Review**, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13.(1) and 13(2) of the **Act** provide as follows:

*13.(1) An appeal lies from a decision or order of the Commission to the Appeal Division of the Supreme Court upon a question of law or jurisdiction.*

*(2) The appeal shall be made by filing a notice of appeal in the Supreme Court within twenty days after the decision or order appealed from and the Civil Procedure Rules respecting appeals apply with the necessary changes.*

IRAC141B(99/2)